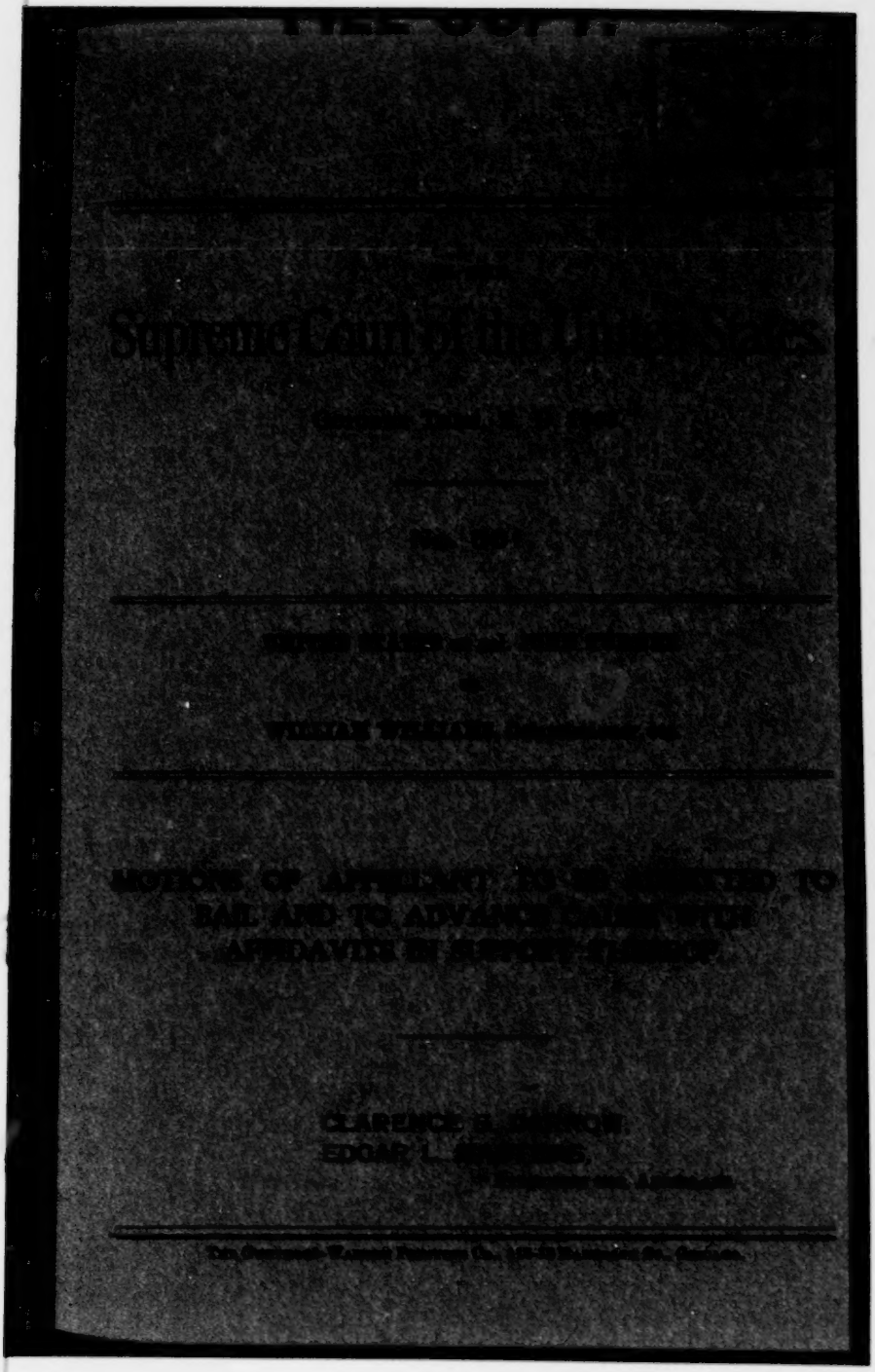

33122

IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1903.

UNITED STATES ex rel. JOHN TURNER *vs.* WILLIAM WILLIAMS, Commissioner, etc.	No. 561.

MOTION OF APPELLANT TO BE ADMITTED TO BAIL.

Comes now the appellant by his counsel, Clarence S. Darrow and Edgar L. Masters, and moves the court for an order enlarging the said John Turner, appellant, from the custody of the said William Williams, pending the disposition of this cause in this court, upon the said appellant giving bail upon such terms and conditions and in such amount as this court shall deem appropriate to the case. And in support of this motion the appellant presents the annexed affidavits and asks consideration thereof and of the record and briefs filed herein in this behalf.

CLARENCE S. DARROW,
EDGAR L. MASTERS,
Attorneys for Appellant.

33123

IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1903.

UNITED STATES ex rel JOHN TURNER	
vs.	No. 561.
WILLIAM WILLIAMS, Commissioner, etc.	

MOTION OF APPELLANT TO ADVANCE CAUSE.

Comes now the appellant by his counsel, Clarence S. Darrow and Edgar L. Masters, and moves the court for an order advancing this cause upon the docket of this court for hearing. And in support of this motion the appellant presents the annexed affidavits and asks consideration thereof and of the record and briefs filed herein in this behalf.

CLARENCE S. DARROW,
EDGAR L. MASTERS,
Attorneys for Appellant.

UNITED STATES OF AMERICA.

IN THE SUPREME COURT OF THE UNITED STATES.

October Term, 1904.

United States *ex rel.* John Turner
against
William Williams, Commissioner of Immigration.

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK. } ss.

Bolton Hall, being duly sworn, says that he is a citizen of the United States, of the age of over 40 years, and has resided in this country since childhood; that he is an attorney and counselor of law in the City and State of New York, and that for many years he has known of the work and character of the above named John Turner; that said work has been in the organizing of retail clerks into unions, and in other matters concerning the well being of the middle and laboring classes.

That said Turner has been a constant writer and lecturer; and that the deponent is familiar with the reports of said lectures, and that they are calculated to promote social peace and friendly relations between classes of society; that the anarchy advocated by John Turner is described in the Century Dictionary as follows: "2. A social theory which regards the union of order with the absence of all direct government of man by man as the political ideal; absolute individual liberty." That Turner's conversation, speeches

and writings are always consistent with this doctrine of Christian freedom.

That the said Turner is a married man and has three small children, whom he supports by the proceeds of his literary and clerical toil, and that as husband, father and citizen of his country his life is ideal.

That the said Turner has never been arrested, indicted or otherwise come in conflict with the authorities, either in England or in any other European country where he has traveled in pursuance of his work in the organization of labor. He visited the United States before in 1896 and spoke to large audiences of influential people and without bringing any odium upon those who were sponsors of his appearance.

I offer myself as surety for any bond that the court may require in case the court should admit him to bail, and can offer real estate in justification of the same in excess of the value of $5,000.

BOLTON HALL.

Sworn to before me this 3d day of February, 1904.

FULTON MCMAHON,

Notary Public New York County.

UNITED STATES
OF AMERICA.

IN THE SUPREME COURT OF THE UNITED STATES.

October Term, A. D. 1904.

United States *ex rel.* John Turner
vs.
William Williams, Commissioner of Immigration.
No. 561.

Louis F. Post, being first duly sworn, deposes and says: That he is a resident of the City of Chicago, in the State of Illinois, and is a citizen of the state; that he is the editor of a weekly editorial publication known as the "Public," which is published in the said City of Chicago, and has been the editor and proprietor of such publication for several years last past.

Affiant further says that about seven years ago he met and became acquainted with the said John Turner at the office of the "Citizen," a labor newspaper published in the City of Cleveland, in the State of Ohio; and that afterwards the said John Turner took dinner at the home of this affiant. That after dinner on the said occasion this affiant had a long talk with the said John Turner, which related principally to labor conditions in Great Britain.

This affiant further says that the said John Turner on said occasion manifested and expressed the most peaceable theories and principles concerning government and labor conditions, and that the said John Turner impressed this affiant by his conduct, appearance and language on said occasion as a

gentleman of very high character. On said occasion the said John Turner told this affiant that he was not a voter in Great Britain, although under British law he had a right to vote; that his reason for not voting was that he objected to participating in the aggressions of governments.

And further this affiant saith not.

LOUIS F. POST.

Subscribed and sworn to before me this 8th day of February, A. D. 1904.

WILEY W. MILLS,
Notary Public.

[SEAL]

UNITED STATES OF AMERICA } ss.

IN THE SUPREME COURT OF THE UNITED STATES.

October Term, A. D. 1904.

United States *ex rel.* John Turner
vs.
William Williams, Commissioner of Immigration. } No. 561.

Clarence S. Darrow, being first duly sworn, deposes and says: That he is a resident of Chicago, and a citizen of the State of Illinois; that he knows of the said John Turner by reputation as being connected with the labor movement in Great Britain, and that the reputation of said John Turner is that of a peaceable and upright man.

This affiant further says that he can schedule more than five thousand dollars ($5,000) in justification of any bond which the court may require to be signed in this cause in case the said John Turner is admitted to bail by order of this court, and this affiant hereby tenders himself as surety upon any bond required by the court in this cause.

CLARENCE S. DARROW.

Subscribed and sworn to before me this 8th day of February, A. D. 1904.

ROBERTA LEE TERRY,
Notary Public.

[SEAL]

UNITED STATES OF AMERICA. } ss.

IN THE SUPREME COURT OF THE UNITED STATES.

October Term, A. D. 1904.

United States *ex rel.* John Turner
against
William Williams, Commissioner of Immigration.

STATE OF NEW YORK, CITY AND COUNTY OF NEW YORK. } ss.

John DeWitt Warner, being duly sworn, deposes and says that he is a native-born citizen of the United States and resides in the City of New York, and has followed the proceedings in the case of John Turner, a citizen of England, solely because of the importance to the rights of every citizen of the questions of law involved therein.

That deponent was a member of the Congress of the United States when in 1894 a proposed anti-anarchist bill was introduced into the body but failed of passage. That deponent is familiar with the Act of Congress of March 3, 1903, under which Turner was arrested and is being held for deportation solely because of his opinions.

That these opinions so far as deponent has been able to ascertain from the records in the case and the general reputation of Turner in labor circles and by other information are in substance identical with those held by the well known scientists Prince Peter Kropotkin and Elisee Reclus, and that these men and others, including Count Leo Tolstoi,

would, if they attempted to enter the United States, be liable to the same treatment as accorded to Turner, and further that anyone inviting them would be liable to fine and imprisonment.

That deponent is familiar with the procedure known in Russia as "administrative process," and historically with the "*lettres de cachet,*" and that much of the procedure contemplated by this law under which Turner is detained is more arbitrary than the former and apparently founded upon the more irresponsible practice of the latter.

That deponent is informed and believes that the case of John Turner is the first in which the federal authority has attempted to interfere with political opinions for over one hundred years.

That deponent is familiar by report of reputable persons with the conditions under which said Turner is kept, and that said Turner is imprisoned and even denied private consultation with counsel, and that as the act in question provides no penalty of imprisonment for the alien therefore Turner is kept in solitary confinement only because he has exercised the right of appeal; and deponent believes that a continuance of said conditions would not only work hardship to said Turner and his family, but amount to a virtual denial of justice.

JOHN DEWITT WARNER.

Sworn to before me this 5th day of February, 1904.

S. A. STORY,
Notary Public, Westchester Co.
Cert. filed in N. Y. Co.

UNITED STATES
OF AMERICA.

IN THE SUPREME COURT OF THE UNITED STATES. . .

October Term, 1904.

United States *ex rel.* John Turner
against
William Williams, Commissioner of Immigration.

Arthur C. Pleydell, being duly sworn, deposes and says that he is a native born citizen of the United States, over 30 years of age, and having been engaged in economic study and writing, has heard and read of the work and opinions of John Turner, a citizen of England, and labor organizer, and in the year 1896 heard Turner debate in Philadelphia on behalf of anarchist-communism; that by this doctrine affiant understands Turner to desire a state of society in which there shall be peace and order without the employment of repression, and while not believing the theories expounded by said Turner to be economically practicable or calculated if put in operation to bring about the results he predicts, affiant believes from knowledge of his career that in advocating these theories said Turner sincerely desires the elevation of mankind and labors for the same without expecting any personal advantage or gain except what might come to him in common with others as a result of improved social conditions.

That affiant became interested in the case of John Turner because of the arbitrary manner of his arrest, being in-

formed by persons who were present that the speech of said Turner was entirely in conformity with the peace and laws of the State of New York; that affiant is informed and believes that the said Turner, who is detained at Ellis Island, in New York Bay, is allowed only 30 cents a day for food, which must be expended at a restaurant located on said island, and that this sum will buy only two cups of coffee, one bowl of soup and ten slices of bread a day, or something similar; and this affiant has therefore collected money and delivered the same to Turner so that he could buy a sufficient amount of food; that said Turner is and has been for more than three months confined in a steel cage about nine by seven feet in floor area, located in the basement of a building, which cage is located more than fifteen feet from any window; and that he is informed and believes that said Turner is guarded constantly and is only allowed a limited amount of exercise daily in the custody of guards, notwithstanding the fact that said Turner so far from contemplating escape has insisted upon staying in the United States in order that the constitutionality of the Act of Congress under which he is detained and threatened with deportation may be authoritatively passed upon by the Supreme Court.

That affiant is informed and believes that the general detention quarters on said Ellis Island by reason of the large number of people usually therein are equally unsuited to a protracted stay; and therefore that either a continuance of confinement in his present quarters or a removal to the general quarters would work hardship to the physical health and mental repose of said Turner, besides preventing him from earning a living for himself and family and rendering

it necessary that they should be supported by the generosity of strangers.

That affiant believes from the general reputation of said Turner that he would not attempt to depart from said island unlawfully or in any other manner intentionally violate any obligation that he undertook or seek to evade the proper determination of his case.

That affiant has received letters from officials of labor unions in England commending the work of said Turner and protesting against the treatment accorded him, and one from the secretary of the National Amalgamated Union of Shop Assistants, Warehousemen and Clerks of Great Britain, stating that Turner had been sent by that organization as one of its delegates to an international conference held in Brussels, Belgium; and that the purport of these letteers is that, however they may disagree with his opinions as to the proper ultimate organization of society, Turner is regarded by his fellow-unionists as a useful and worthy citizen.

That at a public meeting held in New York December 3, 1903, many well known and respected citizens of New York acted as vice-presidents, among others Felix Adler, Wm. H. Baldwin, Jr., Ernest H. Crosby, Horace E. Deming, Henry George, Jr., Rev. Thomas C. Hall, Franklin H. Giddings, Wm. Jay Schiefflin, Carl Schurz, Chas. B. Spahr, Oswald G. Villard, John DeWitt Warner, Richard W. G. Welling, Horace White, and Rev. Leighton Williams; that at this meeting resolutions were adopted protesting against the law which excludes aliens solely because of their opinions, and also against the treatment accorded to John Turner at Ellis Island; and that these or similar resolutions of protest have been passed by the Central Fed-

erated Union of New York, the Brooklyn Federation of Labor, and many other societies and organizations, all of which shows that there are many citizens who believe that Turner should have some form of relief from his present confinement.

That affiant's only interest in this case is that, 1, being interested as a citizen in maintaining the institutions of the United States he believes this law and the manner of Turner's arrest and detention to be contrary to the spirit of these institutions; 2, that he is desirous of having the constitutionality of the law in question passed upon by this court; 3, that he believes Turner to be actuated by a desire for the improvement of social conditions; 4, that as if the law is held to be unconstitutional Turner is entirely innocent of any offense and in that case will have suffered imprisonment without being guilty of any offense whatever; and affiant therefore believes that said Turner should not be exposed to indignities and hardships.

ARTHUR C. PLEYDELL.

Sworn to before me this 4th day of February, 1904.

EDWARD WILLIAMS,
Notary Public, New York Co.

STATE OF COLORADO.
CITY AND COUNTY OF DENVER. } ss.

Max Morris, being first duly sworn, on oath deposes and says:

That he is a citizen of the United States and of the State of Colorado; and,

That he resides in Denver, in said state.

That for the last nine (9) years he has been the secretary-treasurer of the Retail Clerks' International Protective Association, which embraces nearly all the clerks' organizations in the United States and Canada.

That during that time he has had abundant opportunity for observing the work done by John Turner, of London, England.

That John Turner is the head and general organizer of the Shop Assistants of England and has been for a number of years.

That he has the full confidence of the members of that organization, and fills the highest office therein with great credit.

And further deponent saith not.

MAX MORRIS.

Subscribed and sworn to before me this 8th day of February, 1904.

M. H. SAMMIS,
Notary Public.

My commission expires April 1, 1907.

UNITED STATES OF AMERICA.

IN THE SUPREME COURT OF THE UNITED STATES,

October Term, 1904.

United States *ex rel.* John Turner
against
William Williams, Commissioner of Immigration.

CITY AND COUNTY OF NEW YORK. } ss.
STATE OF NEW YORK, }

John Turner, being duly sworn, deposes and says that he resides in London, England, and that he is a subject of Great Britain; that he will be 40 years of age in August, 1904; that he is married and has three children aged from 6 to 14 years; that his wife and children are now residing in London, England, and have no means of livelihood except through his efforts, and that his income and source of livelihood, and that of his wife and children, have been cut off since his confinement at the government immigration building located on Ellis Island, in the Harbor of New York, United States of America.

This affiant further says that he was born and raised in England and received a common school education, and since leaving school has devoted his spare time after working hours to the study of political and economic questions; that for twenty years he was engaged in the grocery business in and near London, England; that about five years ago he became an organizer of retail clerks into labor unions, and from

that time until obtaining leave of absence in October, 1903, was acting in that capacity for and in behalf of the National Amalgamated Union of Shop Assistants, Warehousemen and Clerks of Great Britain, the headquarters thereof located at 122 Gower street, London, England; and that in five years the membership of said union has trebled and its annual revenue increased from $6,500 to $100,000; that as organizer he has traveled through France, Belgium and the United Kingdom of Great Britain and Ireland, organizing labor unions and as labor delegate, and delivering lectures on political and economic subjects, and that his right to enter and pass through the said countries and deliver lectures has never been questioned by the authorities of any of the said countries.

That he has on different occasions and repeatedly lectured in London and other parts of England on the subject of "Essentials of Anarchism," and other subjects, and has delivered the same lectures in England which he contemplated delivering in the United States when arrested and ordered deported as shown by the record in this cause and as hereinafter set forth. That in 1896 he came to the United States of America and in seven months delivered more than one hundred lectures in divers cities and states on political and economic subjects without interference or question on the part of the authorities of any of the said cities and states or otherwise. That on coming to the United States in the month of October, 1903, this affiant was engaged to deliver lectures in the cities of Philadelphia, Boston, Chicago, St. Louis and New York, on trade, labor, political and social questions. This affiant further states that he came to the United States for said purposes and also for the purpose of writing articles relative to the conditions

of the grocery trade in the United States for publication in a trade paper called "Grocery," published in London, England, to which he is a regular contributor. That three brothers of this affiant are residing in the United States, two in the city of Chicago, and one, Albert Turner, who resides at Silverton, Colorado, is a naturalized citizen of the United States, and has resided in the United States twenty years.

That to deliver lectures as aforesaid and similarly to his lecture tour of 1896, to write articles as aforesaid, and others in relation to trade and labor which might seem likely to be suitable for publication in newspapers or periodicals of this country or of Great Britain, to see and visit his brothers and friends who reside in various cities; to make inquiries as to price and freight of manufactured articles with a view to doing business or securing agencies for a business friend in England, were the sole objects of his visits to the United States in October, 1903.

That at the time of his arrest at the instance of the Secretary of the Department of Commerce and Labor and the order of deportation which followed that arrest he had been for more than ten days within the territory of the State of New York, and had freely mingled with the people of the same, and that the lecture which he had delivered in the State of New York, at the conclusion of which he was arrested, was not contrary in its principles or spirit to the laws of the State of New York, nor did the authorities of that state in any manner interfere with the delivery of said lecture or take any action because of the delivery thereof. That in said lecture this affiant did not advocate the violent overthrow of this or any other government or the assassination of any officials, state or federal, or utter any words

which were intended to or caculated to provoke lawlessness or disorder.

That he was immediately after his arrest taken to Ellis Island in the harbor of New York and was there informed that he was to be deported to Great Britain and that he was denied admission to the United States solely because he was an anarchist; that no definition of that word was submitted to this affiant, and this affiant in the said proceeding, if such it can be called, was denied the right of counsel, was proceeded against without any specific offense being charged against this affiant in writing or otherwise, and was denied a jury trial or any other adjudication of any question as related to this affiant which could be properly designated as a trial. That at the time of the said proceeding, in consequence of which he was ordered to be deported, as shown by this record, he was denied the right to consult or even the right to see counsel, and that ever since his incarceration at Ellis Island he has been obliged to talk with his friends and his counsel, subsequently retained, in the presence of one or more officials of the United States, who frequently made minutes of what occurred at such interviews. That he has not advocated the assassination or murder of any individual, whether private citizen or public official, nor has he advocated physical attack upon the government of the United States; but this affiant says that he is an anarchist in the sense that he believes that justice and order and human happiness can best be conserved and increased by voluntary association, and the abandonment of physical compulsion, and of the organized force known sociologically as territorial government, or "the state." That this is the mere conviction or opinion of this affiant, which is the result of study of political and economic subjects, and so far

as this opinion relates to any subject over which this or any other government has control or jurisdiction it is as foreign thereto as the conviction or opinions of this affiant upon religion, finance, taxation, or any other political or economic subject.

That to his personal knowledge in the United States and various countries of Europe there are great numbers of men distinguished by talent, learning and integrity, and devoted to the welfare of humanity, who find many evils in existing governments, and who have come to the conclusion by philosophic investigation that government as now established is theoretically vicious, and practically oppressive and unjust. That in the exercise of an inalienable right, these men are engaged in discussing and writing about the abolition of government, and that as such these men who are in the United States and such as are in England are unmolested by their respective governments because of those opinions; affiant had no reason to believe that he would be molested. That he has been since his arrest kept in close confinement on Ellis Island in a small cell, and under conditions which prevent him from doing even literary work which requires close application, and that he is informed and believes that in the general detention quarters there would be less opportunity for such work; and that he is allowed a credit at the restaurant of thirty cents a day by the government, which will buy only two cups of coffee, a bowl of soup and ten slices of bread, and therefore is compelled to depend upon contributions of money from sympathizers in order to obtain sufficient food; and that while the local officials in charge are personally courteous, these matters are not within their power to correct.

That this affiant, at great loss and suffering to himself has submitted to imprisonment in order that the questions of free speech and freedom of belief and of liberty in general may be passed upon by this court with reference to the immigration act of March 3rd, 1903; that the conditions are such at the immigration station at Ellis Island that this affiant with due regard to the principles of humanity should not be compelled to be detained therein until this case shall be reached by this court in the ordinary course of the call of the docket, which he is informed and believes will be in October next, unless said cause is advanced. And therefore he desires such relief from this court as without prejudice to his appeal from the decision excluding him from the United States, will release him from the imprisonment ot which he has been subjected for the past three months.

JOHN TURNER.

Sworn to before me this 3d day of February, 1904.

BOLTON HALL,
Commissioner of Deeds in and for the City of New York, State of New York.